

GOOGLE'S MOTION TO STRIKE PORTIONS OF THE MITCHELL PATENT REPORT

CIV. No. CV 10-03561-WHA

Exhibit F

1 MORRISON & FOERSTER LLP
2 MICHAEL A. JACOBS (Bar No. 111664)
3 mjacobs@mofo.com
4 MARC DAVID PETERS (Bar No. 211725)
5 mdpeters@mofo.com
6 DANIEL P. MUINO (Bar No. 209624)
7 dmuino@mofo.com
8 755 Page Mill Road
9 Palo Alto, CA 94304-1018
10 Telephone: (650) 813-5600 / Facsimile: (650) 494-0792

11 BOIES, SCHILLER & FLEXNER LLP
12 DAVID BOIES (Admitted *Pro Hac Vice*)
13 dboies@bsfllp.com
14 333 Main Street
15 Armonk, NY 10504
16 Telephone: (914) 749-8200 / Facsimile: (914) 749-8300
17 STEVEN C. HOLTZMAN (Bar No. 144177)
18 sholtzman@bsfllp.com
19 1999 Harrison St., Suite 900
20 Oakland, CA 94612
21 Telephone: (510) 874-1000 / Facsimile: (510) 874-1460

22 ORACLE CORPORATION
23 DORIAN DALEY (Bar No. 129049)
24 dorian.daley@oracle.com
25 DEBORAH K. MILLER (Bar No. 95527)
26 deborah.miller@oracle.com
27 MATTHEW M. SARBORARIA (Bar No. 211600)
28 matthew.sarboraria@oracle.com
500 Oracle Parkway
Redwood City, CA 94065
Telephone: (650) 506-5200 / Facsimile: (650) 506-7114

18 *Attorneys for Plaintiff*
19 ORACLE AMERICA, INC.

20 UNITED STATES DISTRICT COURT
21 NORTHERN DISTRICT OF CALIFORNIA
22 SAN FRANCISCO DIVISION

23 ORACLE AMERICA, INC.

Case No. 3:10-cv-03561-WHA

24 Plaintiff,

**ORACLE'S SECOND
SUPPLEMENTAL PATENT LOCAL RULE
3-1 DISCLOSURE OF ASSERTED
CLAIMS AND INFRINGEMENT
CONTENTIONS**

25 v.

26 GOOGLE, INC.

27 Defendant.

1 Pursuant to Patent Local Rule 3-1 and agreement between the parties, Plaintiff Oracle
 2 America, Inc. (“Oracle”) hereby submits the following Second Supplemental Disclosure of
 3 Asserted Claims and Infringement Contentions.

4 Fact discovery is ongoing, and Google has yet to produce substantial quantities of
 5 information that may affect Oracle’s infringement contentions. In addition, depositions that are
 6 directly relevant to Oracle’s claims of infringement will be scheduled for after the date of this
 7 statement. Not all information about the various versions of the Accused Instrumentalities is
 8 publicly available. For example, Google has neither released nor produced the source code for
 9 Honeycomb, preventing Oracle from analyzing it. Further still, Oracle understands that Google
 10 plans to release future versions of the Accused Instrumentalities.¹

11 As such, Oracle’s investigation into the extent of infringement by Google is ongoing, and
 12 Oracle makes these disclosures based on present knowledge of Google’s infringing activities. In
 13 light of the foregoing, Oracle reserves the right to supplement or amend these disclosures as
 14 further facts are revealed during the course of this litigation.

15 **I. DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT
 16 CONTENTIONS.**

17 **A. Patent Local Rule 3-1(a) — Asserted Claims.**

18 Oracle asserts that Defendant Google is liable under Title 35 U.S.C. § 271(a), (b), (c), and
 19 (f) for infringement of:

- 20 • Claims 11-41 of United States Patent No. RE38,104 (“the ’104 reissue patent”)
 21 (infringement claim chart attached as Exhibit A);
- 22 • Claims 1, 2, 3, 4, and 8 of United States Patent No. 6,910,205 (“the ’205 patent”)
 23 (infringement claim charts attached as Exhibits B-1 and Exhibit B-2);
- 24 • Claims 1, 5-7, 11-13, 15, and 16 of United States Patent No. 5,966,702 (“the ’702
 25 patent”) (infringement claim chart attached as Exhibit C);

26
 27 ¹ See, e.g., [http://en.wikipedia.org/wiki/Android_\(operating_system\)](http://en.wikipedia.org/wiki/Android_(operating_system)) (last visited March 31, 2011)
 28 (Android version “Ice Cream” scheduled for 2011 launch).

- 1 • Claims 1-24 of United States Patent No. 6,125,447 (“the ’447 patent”)
2 (infringement claim chart attached as Exhibit D);
3
- 4 • Claims 1-21 of United States Patent No. 6,192,476 (“the ’476 patent”)
5 (infringement claim chart attached as Exhibit E);
6
- 7 • Claims 1-4 and 6-23 of United States Patent No. 6,061,520 (“the ’520 patent”)
8 (infringement claim chart attached as Exhibit F); and
9
- 10 • Claims 1-8, 10-17, and 19-22 of United States Patent No. 7,426,720 (“the ’720
11 patent”) (infringement claim chart attached as Exhibit G).

12 **B. Patent Local Rule 3-1(b) — Accused Instrumentalities.**

13 Based on Oracle’s investigation thus far, Oracle accuses the following Accused
14 Instrumentalities of infringing the asserted claims specified above in the manner described in
15 Exhibits A-G: (i) “Android” or “the Android Platform”;² (ii) Google devices running Android;
16 and (iii) other mobile devices running Android. Representative examples of Google devices
17 running Android include the Google Dev Phones, the Google Nexus One, and the Google Nexus
18 S.³ Representative examples of other mobile devices running Android include HTC’s EVO 4G,
19 HTC’s Droid Incredible, HTC’s G2, Motorola’s Droid, and Samsung’s Captivate. Android
20 applications, including those written by Google, when built or run will necessarily use the
21 infringing functionality in the manner described in Exhibits A-G. For example, application
22 developers like Google use the Google-provided dx tool from the Android SDK to convert .class
23

24 ² “Android” or “the Android Platform” means “Android” as referred to in Google’s Answer
25 (Docket No. 32) at Background ¶ 12 and in Google’s Answer to Amended Complaint (Docket
26 No. 51) at Background ¶ 12 and at Factual Background ¶¶ 11-17, and includes any versions
27 thereof (whether released or unreleased) and related public or proprietary source code, executable
28 code, and documentation.

29 ³ See, e.g., JR Raphael, *The Nexus S and Google: Everything There Is To Know*, PCWORLD (Nov.
30 11, 2010), available at
31 http://www.pcworld.com/article/210460/the_nexus_s_and_google_everything_there_is_to_know.html (last visited Nov. 29, 2010) (“Today’s buzz is all about the Samsung Nexus S -- a still-
32 under-wraps smartphone believed to be the successor to Google’s Nexus One. According to
33 various leaks, the Nexus S will be a ‘Google experience’ device, meaning it’ll run a stock version
34 of Android without any of those baked-in manufacturer UIs. And, if the latest rumors prove to be
35 true, the Samsung Nexus S will be rocking the as-of-yet-unannounced Android Gingerbread
36 release.”). The “leaks” proved to be true: the Nexus S runs a stock version of Gingerbread.